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In re Application of  
HEIMALA, et al.  
Application No.: 10/564,477  
PCT No.: PCT/FI04/00451  
Int. Filing Date: 14 July 2004  
Priority Date: 17 July 2003  
Atty. Docket No.: 1034281-000003  
For: METHOD FOR PRODUCING CONCENTRATES

DECISION ON PETITION  
UNDER 37 CFR 1.181

This decision is in response to applicant's "Petition Under 37 C.F.R. §1.181 to Vacate Notice of Missing Requirements Under 35 U.S.C. §371" filed 10 July 2006 in the United States Patent and Trademark Office (USPTO).

**BACKGROUND**

On 14 July 2004, applicant filed international application PCT/DE01/03535 which claimed priority to an earlier application filed 17 July 2003. Pursuant to 37 CFR 1.495 the thirty-month period for paying the basic national fee in the United States expired at midnight on 17 January 2006.

On 13 January 2006, applicant filed a transmittal letter for entry into the national stage in the United States, which was accompanied by the requisite basic national fee as required by 35 U.S.C. 371(c)(1), an English translation of the international application, a copy of the declaration filed with the international application, an Information Disclosure Statement, an assignment for recording and a first preliminary amendment.

On 10 May 2006, applicant was mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) informing applicant of the need to provide an executed oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. In addition, applicant was notified of the need to provide a surcharge of \$130.00 for filing the oath or declaration later than the appropriate 20 or 30 months from the earliest priority date. Applicant was given two months to respond and advised that this time period could be extended with a proper petition and payment of fees.

On 10 July 2006, applicant filed the present petition to vacate the Form PCT/DO/EO/905 indicating that the executed declaration was filed with the PCT Request form on 14 July 2004.

**DISCUSSION**

The USPTO has received confirmation from the International Bureau (IB) that the subject declaration was filed with the PCT Request form and therefore is valid for the purposes of entering the National stage in the United States as the international application identifies the application to which it is directed.

**CONCLUSION**

Applicant's petition under 37 CFR 1.181 is **GRANTED**.

The Form PCT/DO/EO/905 mailed 10 May 2006 is hereby **VACATED**.

The application will be given an international filing date of 14 July 2004 under 35 U.S.C. 363 and a date of **13 January 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

This application is being returned to the United States Designated/Elected Office (US/DO/EO) for further processing in accordance with this decision, namely the issuance of a "Notification of Acceptance of Application Under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" (Form PCT/DO/EO/903) indicating a 371 date as detailed above.



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